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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,197	12/16/2003	Frederic P. Field	D0188.70170US02	5833
23628 7590 06/26/2008 WOLF GREENFIELD & SACKS, P.C. 600 ATLANTIC AVENUE BOSTON, MA 02210-2206				
EXAMINER				
LANG, AMY T				
ART UNIT		PAPER NUMBER		
3731				
MAIL DATE		DELIVERY MODE		
06/26/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/737,197

**Applicant(s)**

FIELD ET AL.

**Examiner**

AMY T. LANG

**Art Unit**

3731

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-20 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 and 13-20 is/are allowed.
- 6) ☒ Claim(s) 38-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date 3/14/08
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The indicated allowability of claims 38-40 is withdrawn in view of the newly discovered reference(s) to Williamson, IV et al. (US 6,162,233). Rejections based on the newly cited reference(s) follow.

### ***Terminal Disclaimer***

2. The terminal disclaimer filed on 03/14/2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/396,927 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities: line 12 of claim 1 states " a cutter adapted pass between" which should be replaced with "a cutter adapted *to* pass between." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 38-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Williamson, IV et al. (US 6,162,233).

Williamson, IV et al. (hereinafter Williamson) discloses a suturing instrument and method of using the instrument (see entire document). Specifically, as shown in Figures 23-29, suture wire is bent through a curved portion of a first channel (column 15, lines 1-4). Handle portion (13) clearly overlaps the instantly claimed means for driving the suture wire through the first channel (column 14, lines 61-64). The suture wire is then bent upon exiting the distal end of the instrument so that the leading end of the suture wire initially moves away from all portions of the instrument. As shown in Figure 24, the suture wire then follows a curved trajectory to return to the distal end of the instrument to form a wire loop. A second channel then receives the suture wire and a cutter mechanism (170) cuts the suture wire (column 15, lines 40-42). Anvil mechanism then bends the trailing and leading ends of the suture wire inward toward the center of the wire loop (Figures 27-28; column 15, lines 62-67).

***Allowable Subject Matter***

6. Claims 1-11 and are 13-20 allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMY T. LANG whose telephone number is (571)272-9057. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

06/19/2008  
/Amy T Lang/  
Examiner, Art Unit 3731

/Todd E Manahan/  
Supervisory Patent Examiner, Art Unit 3731